

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #1	CCRB Case #: 202002487	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/17/2020 8:40 PM, Tuesday, 03/17/2020 10:00 PM	Location of Incident: Marcy Avenue and Kings Place; 79th Precinct Stationhouse	Precinct: 79	18 Mo. SOL 9/17/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 03/17/2020 10:30 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/02/2020 11:37 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Frederick Manney	04797	949938	079 PCT
2. POM Mohamed Elhanafi	15082	955897	079 PCT
3. SGT Joseph Kosek	01427	949175	079 PCT
4. POM Antonio Zorrilla	10893	961480	079 PCT
5. An officer			079 PCT
6. Officers			079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Javier Lopez	01826	951937	079 PCT
2. SGT Alan Myrthil	03851	932190	079 PCT
3. POM Kyle Barnett	24594	952443	079 PCT
4. LT Henry Daverin	00000	945645	079 PCT
5. POM Anthony Davila	14220	956571	079 PCT
6. SGT Gregg Minardi	00608	940475	079 PCT
7. DTS Angelo Pampena	03009	944874	079 PCT
8. PO NEYSA KORYCKI	04271	960606	079 PCT
9. PO KIERSTEN CHAMBERS	26702	966995	079 PCT
10. PO Patrick Foley	18425	958596	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Antonio Zorrilla	Abuse: At Marcy Avenue and Kings Place in Brooklyn, Police Officer Antonio Zorrilla interfered with § 87(2)(b)'s use of a recording device.	
B. Officers	Force: At Marcy Avenue and Kings Place in Brooklyn, officers used physical force against § 87(2)(b)	
C.SGT Frederick Manney	Discourtesy: At Marcy Avenue and Kings Place in Brooklyn, Sergeant Fredrick Manney spoke discourteously towards § 87(2)(b)	
D.SGT Frederick Manney	Force: At Marcy Avenue and Kings Place in Brooklyn, Sergeant Fredrick Manney used physical force against § 87(2)(b)	
E.POM Antonio Zorrilla	Force: At Marcy Avenue and Kings Place in Brooklyn, Police Officer Antonio Zorrilla used physical force against § 87(2)(b)	
F.SGT Frederick Manney	Force: At the 79th Precinct stationhouse, Sergeant Fredrick Manney used physical force against § 87(2)(b)	
G.POM Antonio Zorrilla	Force: At the 79th Precinct stationhouse, Police Officer Antonio Zorrilla used physical force against § 87(2)(b)	
H.POM Mohamed Elhanafi	Force: At the 79th Precinct stationhouse, Police Officer Mohamed Elhanafi used physical force against § 87(2)(b)	
I.SGT Joseph Kosek	Force: At the 79th Precinct stationhouse, Sergeant Joseph Kosek used physical force against § 87(2)(b)	
J.SGT Joseph Kosek	Force: At the 79th Precinct stationhouse, Sergeant Joseph Kosek used physical force against § 87(2)(b)	
K.SGT Joseph Kosek	Discourtesy: At the 79th Precinct stationhouse, Sergeant Joseph Kosek spoke discourteously towards § 87(2)(b)	
L. An officer	Force: At the 79th Precinct stationhouse, an officer used physical force against § 87(2)(b)	
M. An officer	Discourtesy: At the 79th Precinct stationhouse, an officer spoke discourteously towards § 87(2)(b)	
N.SGT Frederick Manney	Discourtesy: Sergeant Frederick Manney was discourteous towards individuals.	

Case Summary

On March 17, 2020, § 87(2)(b) called the Internal Affairs Bureau (IAB) Command Center and filed this complaint on behalf of himself, his three cousins, § 87(2)(b) -old § 87(2)(b) § 87(2)(b) -old § 87(2)(b) § 87(2)(b) -old § 87(2)(b) and his two nephews, § 87(2)(b) -old § 87(2)(b) and § 87(2)(b) -old § 87(2)(b). On April 2, 2020, the complaint was received at the CCRB.

On March 17, 2020, at approximately 8:40 p.m., Sergeant Fredrick Manney, and Police Officers Mohamed Elhanafi and Antonio Zorrilla, all from the 79th Precinct, arrested § 87(2)(b) in the vicinity of Marcy Avenue and Kings Place in Brooklyn. PO Zorrilla interfered with § 87(2)(b)'s use of a recording device (**Allegation A: Abuse of Authority, § 87(2)(g)**). Officers used physical force against § 87(2)(b) (**Allegation B: Force, § 87(2)(g)**). Sgt. Manney spoke discourteously towards § 87(2)(b) (**Allegation C: Discourtesy, § 87(2)(g)**). Sgt. Manney and PO Zorrilla used physical force against § 87(2)(b) (**Allegations D and E: Force, § 87(2)(g)**).

At the 79th Precinct stationhouse, Sgt. Manney and PO Zorrilla used physical force against § 87(2)(b) (**Allegations F and G: Force, § 87(2)(g)**). PO Elhanafi used physical force against § 87(2)(b) (**Allegation H: Force, § 87(2)(g)**). Sergeant Joseph Kosek of the 79th Precinct, used physical force against § 87(2)(b) and § 87(2)(b) (**Allegations I and J: Force, § 87(2)(g)**). Sgt. Kosek spoke discourteously towards § 87(2)(b) (**Allegation K: Discourtesy, § 87(2)(g)**). An officer used force against § 87(2)(b) (**Allegation L: Force, § 87(2)(g)**), and spoke discourteously towards § 87(2)(b) (**Allegation M: Discourtesy, § 87(2)(g)**). Sgt. Manney was discourteous toward individuals (**Allegation N: Discourtesy, § 87(2)(g)**).

§ 87(2)(b) and § 87(2)(b) were all arrested as a result of this incident (Board Review 01 – Board Review 03). No other arrests or summonses resulted from this incident.

Two cellphone videos, three surveillance footages from the 79th Precinct stationhouse, and seven police body worn camera footages, were received for this incident (Board Review 04 – Board Review 15).

Findings and Recommendations

Allegation (A) Abuse of Authority: At Marcy Avenue and Kings Place in Brooklyn, Police Officer Antonio Zorrilla interfered with § 87(2)(b)'s use of a recording device.

It is not disputed that on March 17, 2020, at approximately 8:40 p.m., § 87(2)(b) and his three cousins, § 87(2)(b) -old § 87(2)(b) § 87(2)(b) -old § 87(2)(b) and § 87(2)(b) -old § 87(2)(b) were walking in the vicinity of Marcy Avenue and Kings Place in Brooklyn, when Sgt. Manney, PO Elhanafi, and PO Zorrilla, approached and arrested § 87(2)(b) McClay for possession of brass knuckles (Board Review 01). It is however, disputed, whether any of the officers interfered with § 87(2)(b)'s use of a recording device.

§ 87(2)(b) (Board Review 17) and § 87(2)(b) (Board Review 18) both said that PO Zorrilla ordered § 87(2)(b) to put his phone away as soon as § 87(2)(b) began to record the incident. § 87(2)(b) and § 87(2)(b) did not know why PO Zorrilla ordered § 87(2)(b) to put his phone away.

§ 87(2)(b) and § 87(2)(b) were uncooperative and unavailable, respectively, to the investigation (Board Review 16).

Sgt. Manney, PO Zorrilla, and PO Elhanafi recorded the entirety of this incident on their body worn cameras. PO Zorrilla's BWC (Board Review 11) starts with PO Zorrilla sitting in the driver's seat of the officers' vehicle. At 00:28, PO Zorrilla exits the vehicle, and approaches the sidewalk. Sgt. Manney, dressed in a dark hoodie, and PO Elhanafi, dressed in a grey hoodie, are on the sidewalk, and appear to be holding § 87(2)(b) § 87(2)(b) dressed in a blue hoodie, § 87(2)(b) dressed in a red hoodie, and § 87(2)(b) dressed in a dark hoodie

Allegation (B) Force: At Marcy Avenue and Kings Place in Brooklyn, officers used physical force against § 87(2)(b).

Allegation (C) Discourtesy: At Marcy Avenue and Kings Place in Brooklyn, Sergeant Fredrick Manney spoke discourteously towards § 87(2)(b).

Allegation (D) Force: At Marcy Avenue and Kings Place in Brooklyn, Sergeant Fredrick Manney used physical force against § 87(2)(b).

Allegation (E) Force: At Marcy Avenue and Kings Place in Brooklyn, Police Officer Antonio Zorrilla used physical force against § 87(2)(b).

It is not disputed that Sgt. Manney and PO Zorrilla used force against § 87(2)(b) and § 87(2)(b) both said the three officers, while escorting § 87(2)(b) to the officers' vehicle, pushed and threw § 87(2)(b) into the rear seat of the vehicle, and thus caused § 87(2)(b) to hit his head against the rear door. § 87(2)(b) and § 87(2)(b) could not provide any details about the exact force the officers allegedly used, nor did they know why force was used against § 87(2)(b) § 87(2)(b) and § 87(2)(b) did not allege that any of the officers spoke discourteously towards § 87(2)(b).

As discussed earlier, § 87(2)(b) was uncooperative with the investigation.

Sgt. Manney's BWC (Board Review 10) at 01:25, shows Sgt. Manney escorting § 87(2)(b) towards the rear door on the passenger's side of the officer's vehicle. § 87(2)(b) argues that he was carrying brass knuckles for his protection and when Sgt. Manney tells him that he cannot carry them, § 87(2)(b) says to Sgt. Manney, "yo, you just touched my dick" and yells out, seemingly for others to hear, "I got harassed; just touched my dick" (A sexual misconduct referral was generated to IAB under CCRB case # 202200700 to address § 87(2)(b) complaint about officer touching his genitals). Sgt. Manney appears to attempt to sit him inside the vehicle. At 01:34, Sgt. Manney says to § 87(2)(b) "Get in the fucking car," while appearing to attempt to get § 87(2)(b) who has his back towards the rear door, inside the vehicle. At 01:36, § 87(2)(b) does not appear to enter the vehicle, and says to Sgt. Manney, "Fuck you bitch." At 01:37, Sgt. Manney orders § 87(2)(b) a second time to enter the vehicle, at which point Sgt. Manney's camera rapidly shakes. At 01:38, § 87(2)(b) appears to enter the rear seat of the vehicle, but it is unclear how § 87(2)(b) eventually enters the vehicle, nor is it clear if § 87(2)(b)'s head makes contact with any part of the vehicle. The footage also does not capture any audible strike, verbal indication from § 87(2)(b) that he is in pain, that force was used against him, or otherwise hit his head against any part of the vehicle. At 01:38, PO Zorrilla, who is sitting in the driver's seat of the vehicle, appears to have his right hand extended into the rear of the vehicle just about the same time § 87(2)(b) enters the vehicle. At 01:43, Sgt. Manney closes the rear passenger's side door, and enters the front passenger's seat. The officers then drive to the 79th Precinct stationhouse.

PO Elhanafi's BWC (Board Review 09) at 01:30, shows PO Elhanafi walking towards the rear door on the driver's side while Sgt. Manney escorts § 87(2)(b) towards the rear door on the passenger's side. At 01:34, PO Elhanafi orders § 87(2)(b) to enter the vehicle. At 01:36, PO Elhanafi approaches the rear door on the passenger's side, and appears to stand next to Sgt. Manney and § 87(2)(b). It is, however, unclear, if PO Elhanafi makes physical contact with § 87(2)(b). At 01:37, Sgt. Manney has his left hand on what appears to be § 87(2)(b)'s chest, and his right hand on what appears to be § 87(2)(b)'s midsection. Sgt. Manney then appears to attempt to push § 87(2)(b) inside the vehicle. At 01:40, § 87(2)(b) appears to be pulled inside the vehicle, but it is unclear what causes him to enter the vehicle.

PO Zorrilla's BWC (Board Review 11) at 01:30, shows PO Zorrilla sitting in the driver's seat of the officers' vehicle. At 01:33, PO Zorrilla appears to turn his body towards the rear of the car, while Sgt. Manney is heard ordering § 87(2)(b) to enter the vehicle. At 01:35, PO Zorrilla's camera briefly shakes. It is unclear what causes PO Zorrilla's camera to shake, nor does

the footage depict how § 87(2)(b) eventually enters the vehicle. None of the BWC depicts § 87(2)(b) complaining about any injuries or pain to his head.

Sgt. Manney, PO Zorrilla, and PO Elhanafi's testimonies were consistent with their respective BWCs. Sgt. Manney said he tried to push § 87(2)(b) inside the vehicle because § 87(2)(b) tensed his body and refused to enter the vehicle. Sgt. Manney, however, did not recall, how § 87(2)(b) eventually entered the vehicle, did not recall observing § 87(2)(b) hit his head against any of the vehicle's parts while being placed inside the vehicle, nor did he recall being assisted by any other officer in placing § 87(2)(b) inside the vehicle. Sgt. Manney acknowledged using the above referenced profanity against § 87(2)(b) and said, although he unintentionally uttered those words, he did so to get § 87(2)(b) to stop resisting and enter the vehicle. Sgt. Manney had no other reasons for using the above referenced profanity towards § 87(2)(b).

PO Zorrilla acknowledged turning towards the rear of the vehicle while he was in the driver's seat, and said he grabbed the back of § 87(2)(b)'s pants, while § 87(2)(b) was by the rear door and was refusing to enter the vehicle, and pulled § 87(2)(b) inside the vehicle. PO Zorrilla did not know if § 87(2)(b) hit his head or any part of his body against the vehicle as a result of being pulled inside the vehicle, nor did he observe or hear § 87(2)(b) complain of any injuries.

NYPD Patrol Guide Procedure 200-02, states that officers must maintain a higher standard of integrity than is generally expected of others, and that they must treat every citizen with compassion, courtesy, professionalism, and respect (Board Review 22). However, in prior disciplinary cases, the NYPD has held that the use of profane remarks during stressful situations or while an officer is trying to get a chaotic situation under control, does not constitute misconduct, DAO-DCT Disciplinary Case No. 2017-17005 (Board Review 23).

NYPD Patrol Guide Procedure 221-01, permits officers to use force when it is reasonable to ensure their safety, to gain compliance, to place a person into custody or to prevent an escape from custody. In determining whether the use of force is reasonable, officers shall consider the actions taken by the subject, and the immediacy of the perceived threat or harm to the subject, officers, and/or bystanders (Board Review 24).

§ 87(2)(g)

Allegation (F) Force: At the 79th Precinct stationhouse, Sergeant Fredrick Manney used physical force against § 87(2)(b).

Allegation (G) Force: At the 79th Precinct stationhouse, Police Officer Antonio Zorillo used physical force against § 87(2)(b).

It is undisputed that Sgt. Manney and PO Zorrilla used force against § 87(2)(b) and § 87(2)(b) (Board Review 25 – Board Review 26) both said they together with their cousin, § 87(2)(b) went to the 79th Precinct stationhouse to inquire about the arrest of their nephew, § 87(2)(b). They met with Sgt. Manney and PO Elhanafi, who identified themselves as § 87(2)(b)'s arresting officers, and said § 87(2)(b) was arrested for possession of brass knuckles. § 87(2)(b) who was very upset about § 87(2)(b).

§ 87(2)(b)'s arrest, argued with the officers about how they were able to observe the brass knuckles on § 87(2)(b)'s person. § 87(2)(b) acknowledged yelling at the officers, but denied acting aggressively towards them. At some point, additional officers approached the waiting area, which made § 87(2)(b) uncomfortable. § 87(2)(b) thus told Sgt. Manney that he would be comfortable speaking with Sgt. Manney outside the stationhouse, and if Sgt. Manney took off his shield, which hung around Sgt. Manny's neck. Sgt. Manney removed his shield and told § 87(2)(b) to follow him outside the stationhouse. § 87(2)(b) raised both his hands up in the air, told Sgt. Manney that he did not want any trouble, and that he only wanted the officers to release his nephew. § 87(2)(b) then began to walk backwards towards the exit. Sgt. Manney, who stood face to face with § 87(2)(b) pushed § 87(2)(b) approximately three times on his chest, out of the stationhouse. § 87(2)(b) did not know why Sgt. Manny pushed him, did not act aggressively or violently towards any of the officers, nor did he sustain any injuries as a result of the push. § 87(2)(b) did not allege being pushed by any other officer.

Surveillance footage from the interior of the 79th Precinct stationhouse (Board Review 06), which has no audio, at 40:37, shows § 87(2)(b) wearing a camouflage jacket, blue jeans, dark hat, § 87(2)(b) wearing a dark jacket, dark pants, dark hat, and § 87(2)(b) wearing an unbuttoned multicolored long sleeve shirt, white T-shirt, grey sweatpants, and a Durag, all entering a set of glass door from the sidewalk leading into the vestibule of the stationhouse, climbing a set of approximately three steps, and entering a second set of glass doors into what appears to be the waiting area of the stationhouse. At 40:40, § 87(2)(b) and § 87(2)(b) approach and speak with the officer at a small desk behind a partition, identified via investigation as PO Kiersten Chambers. At 41:30, § 87(2)(b) paces back and forth while appearing to speak. At 41:47, PO Elhanafi enters the waiting area, and begins to speak with § 87(2)(b). At 42:21, Sgt. Manney also approaches the waiting area, and together with PO Elhanafi speak with § 87(2)(b). § 87(2)(b) and § 87(2)(b) are both standing behind § 87(2)(b) and appear to be observing the conversation between § 87(2)(b) and the two officers. At 40:32, Police Officer Patrick Foley, identified via investigation, and PO Zorrilla, enter the waiting area, and stand by the front desk and the glass door, respectively. At 42:34, § 87(2)(b) who appears to be speaking in a raised voice, places both his hands up in the air. At 42:44, § 87(2)(b) places both hands down, and appears to be arguing with Sgt. Manney. At 42:46, Sgt. Manney shows § 87(2)(b) his shield, which is hanging around Sgt. Manney's neck. At 42:55, § 87(2)(b) slightly turns and points towards the exit of the stationhouse. Sgt. Manney removes and gives his shield to PO Elhanafi. Sgt. Manney and § 87(2)(b) then begin to walk towards the vestibule of the stationhouse. PO Elhanafi, PO Zorrilla, PO Foley, § 87(2)(b) and approximately four additional officers from the stationhouse, all appear to follow Sgt. Manney and § 87(2)(b). At 43:06, § 87(2)(b) PO Foley, Sgt. Manney and PO Zorrilla, are in the vestibule of the stationhouse. § 87(2)(b) and PO Foley are standing by the door that leads to the sidewalk, whereas § 87(2)(b) Sgt. Manney, and PO Zorrilla, all of whom are facing each other, are standing by the steps, and less than a foot away from the door that leads to the front desk and waiting area. At 43:08, § 87(2)(b) appears to attempt to move between Sgt. Manney and PO Zorrilla so he could enter the waiting area. Sgt. Manney places his right hand on § 87(2)(b)'s chest, appears to tap § 87(2)(b)'s chest approximately two times, and appears to point towards the door that leads to the sidewalk. At 43:11, § 87(2)(b) who appears to be arguing with the officers, appears to attempt to remove his unbuttoned multicolored long sleeve shirt. At 43:12, § 87(2)(b) raises both hands up in the air, and appears to be arguing with Sgt. Manney. At 43:33, Sgt. Manney pushes § 87(2)(b) on his chest, and thus appears to cause § 87(2)(b) to hop off the set of stairs in the vestibule. All the officers on scene then follow § 87(2)(b) outside the stationhouse. At 43:45, § 87(2)(b) who has been standing in the waiting area the entire time, follows the officers, § 87(2)(b) and § 87(2)(b) outside the stationhouse.

Sgt. Manney's BWC (Board Review 12) captured the same events as the stationhouse footage, and in addition at 00:59, PO Zorrilla pushes § 87(2)(b) on his chest out of the

stationhouse as he is standing at the glass doors leading to the sidewalk. At 01:00, the audio engages, and Sgt. Manney says, “good night; now you’re out; now you’re out” and captures § 87(2)(b) yelling and arguing with the officers about § 87(2)(b)’s arrest. Sgt. Manney told § 87(2)(b) that if he wanted to have a conversation like a man, then he needed to stop yelling.

Sgt. Manney’s and PO Zorrilla’s testimonies were consistent with the video evidence as well as the testimonies of § 87(2)(b) and § 87(2)(b) but with the following exceptions. Sgt. Manney said he repeatedly ordered § 87(2)(b) who was very angry and unwilling to listen to anything the officers had to say, to calm down and speak with the officers, but § 87(2)(b) was noncompliant, and continued to yell and argue with the officers. Sgt. Manney thus in an attempt to prevent the interaction from escalating agreed to speak with § 87(2)(b) outside the stationhouse. Sgt. Manney also acknowledged ordering § 87(2)(b) out of the stationhouse because § 87(2)(b)’s behavior was causing officers to gather by the front desk and waiting area. Sgt. Manney and PO Zorrilla both pushed § 87(2)(b) because § 87(2)(b) failed to comply with lawful orders to leave the stationhouse, and stood in close proximity to the officers, which Sgt. Manney and PO Zorrilla considered as a threat to their safety and that of the other officers at the stationhouse. Sgt. Manney and PO Zorrilla had no other reasons for pushing § 87(2)(b).

As discussed earlier, NYPD Patrol Guide Procedure 221-01, permits officers to use force when it is reasonable to ensure their safety, or to gain compliance (Board Review 24).

§ 87(2)(g)

Allegation (H) Force: At the 79th Precinct stationhouse, Police Officer Mohamed Elhanafi used physical force against § 87(2)(b)

§ 87(2)(b) said officers followed her, § 87(2)(b) and § 87(2)(b) outside the stationhouse, and that at some point, officers grabbed § 87(2)(b) and attempted to handcuff him. § 87(2)(b) attempted to approach § 87(2)(b) and obtain his cellphone, which § 87(2)(b) held in his hands, but was pushed on her chest by an officer § 87(2)(b) could not describe, and thus caused § 87(2)(b) to take a few steps backwards. § 87(2)(b) did not sustain any injuries as a result of the push, nor did she know why the officers grabbed and handcuffed § 87(2)(b).

Surveillance footage from the exterior of the 79th Precinct stationhouse (Board Review 08), at 43:41, shows § 87(2)(b) Sgt. Manney, PO Zorrilla, PO Foley, PO Elhanafi, § 87(2)(b) and § 87(2)(b) exiting the stationhouse, and standing on the sidewalk. Sgt. Manney appears to be speaking with § 87(2)(b). At 44:50, additional officers, including Sergeant Joseph Kosek and Lieutenant Henry Daverin exit the stationhouse, and stand next to the other officers on the sidewalk. At 45:23, § 87(2)(b) and § 87(2)(b) are standing behind § 87(2)(b). At 45:37, a group of officers grab and surround § 87(2)(b). At 45:38, § 87(2)(b) walks towards the officers who grabbed and surrounded § 87(2)(b). § 87(2)(b) is standing less than a foot away from the officers and § 87(2)(b). At 45:39, PO Elhanafi, identified via investigation, extends his left hand towards § 87(2)(b)’s direction, and appears to make contact with § 87(2)(b)’s chest. At 45:40, § 87(2)(b) takes approximately three steps backwards, at which point PO Elhanafi then turns his attention towards the other officers, who appear to be handcuffing § 87(2)(b).

PO Elhanafi (Board Review 20) had no independent recollection of pushing § 87(2)(b) even after reviewing the stationhouse footage, but said he might have pushed § 87(2)(b) because she was approaching the officers while they were trying to arrest § 87(2)(b).

NYPD Patrol Guide Procedure 221-01, permits officers to use force when it is reasonable to ensure their safety, or to gain compliance (Board Review 24).

§ 87(2)(g)

Allegation (I) Force: At the 79th Precinct stationhouse, Sergeant Joseph Kosek used physical force against § 87(2)(b).

Allegation (J) Force: At the 79th Precinct stationhouse, Sergeant Joseph Kosek used physical force against § 87(2)(b).

It is undisputed that Sgt. Kosek pushed § 87(2)(b) and § 87(2)(b).

Surveillance footage from the exterior of the 79th Precinct stationhouse (Board Review 08), at 45:44, shows approximately four plainclothes officers, including Sgt. Kosek (wearing a black t-shirt, gray pants, and white/black sneakers), walking towards § 87(2)(b) and § 87(2)(b) who are both approximately seven to eight feet away from the officers who have surrounded § 87(2)(b) and are appearing to place him in handcuffs. At 45:45, § 87(2)(b) appears to turn away from the officers, and begins to walk towards the street. At 45:56, Sgt. Kosek appears to use his right hand to push § 87(2)(b) on her back while she walks away from the officers. § 87(2)(b) who takes approximately one step forward, turns and faces Sgt. Kosek. § 87(2)(b) is standing next to § 87(2)(b) and is also facing Sgt. Kosek. At 45:47, Sgt. Kosek appears to point towards the street, at which point § 87(2)(b) and § 87(2)(b) both appear to walk slowly backwards. At 45:50, Sgt. Kosek, § 87(2)(b) and three other officers, who are not close enough to be identified, appear to be standing by the curb of the sidewalk, which is approximately 15 to 20 feet away from the front entrance of the stationhouse. At 45:40, Sgt. Kosek appears to use both hands to push § 87(2)(b) on his chest, and thus causes both of § 87(2)(b)'s feet to be slightly lifted off the ground. § 87(2)(b) then falls approximately three feet away from Sgt. Kosek and appears to land on his buttocks. At 45:54, Sgt. Kosek, appears to walk away, while § 87(2)(b) appears to help § 87(2)(b) off the ground. At 45:57, approximately seven plainclothes officers, PO Zorrilla, and Sgt. Kosek, approach and grab § 87(2)(b) as he appears to be getting off the ground, guide him to the ground, handcuff him, and escort him inside the stationhouse.

A different camera angle from the exterior of the 79th Precinct stationhouse (Board Review 07), at 45:51, shows § 87(2)(b) and § 87(2)(b) slowly walking backwards, while Sgt. Kosek walks towards them. At 45:53, Sgt. Kosek places both his hands on § 87(2)(b)'s chest, leans forward, and then pushes § 87(2)(b) once on his chest. § 87(2)(b)'s feet are slightly off the ground while he falls backwards, and appears to land approximately three feet back on his buttocks and back. At 45:57, Lieutenant Henry Daverin and PO Kyle Barnett, both of whom are by the entrance of the stationhouse, which is approximately 10 feet away, walk towards § 87(2)(b) and § 87(2)(b). Lt. Daverin and PO Barnett hold and guide § 87(2)(b) to the ground. Additional officers, including Sgt. Kosek, PO Zorrilla, and PO Foley, all approach and appear to assist with the arrest of § 87(2)(b).

§ 87(2)(b) did not know why Sgt. Kosek pushed her and § 87(2)(b) but said she and § 87(2)(b) were leaving the location when Sgt. Kosek pushed them.

§ 87(2)(b) was unavailable to the investigation despite extensive contact attempts to reach him (Board Review 27).

Sgt. Kosek (Board Review 28) said he was inside his office on the second floor of the stationhouse, when he heard a commotion outside the stationhouse. Sgt. Kosek thus exited the stationhouse, and saw § 87(2)(b) arguing with Sgt. Manney and some other officers. At some point, § 87(2)(b) was arrested, whereas § 87(2)(b) and § 87(2)(b) neither of whom Sgt. Kosek recalled observing when he first exited the stationhouse, were ordered to leave and go home. § 87(2)(b) and § 87(2)(b) however, appeared to ignore the officers' orders, and remained on the

sidewalk. Sgt. Kosek thus approached § 87(2)(b) and § 87(2)(b) and tried to get them to leave the stationhouse. Sgt. Kosek did not recall pushing § 87(2)(b) except that he tried to “guide” her away from the stationhouse. Sgt. Kosek could not describe how he tried to guide § 87(2)(b) away from the stationhouse, nor did he have any independent recollection of pushing § 87(2)(b). Sgt. Kosek said § 87(2)(b) approached and made a threatening statement to Sgt. Kosek while Sgt. Kosek ordered § 87(2)(b) and § 87(2)(b) to leave the sidewalk, but Sgt. Kosek did not recall what § 87(2)(b) said to him, except that § 87(2)(b)'s statement caused Sgt. Kosek to fear for his safety. Sgt. Kosek had no other articulable concerns about his safety besides § 87(2)(b)'s threatening statement, did not recall observing § 87(2)(b) act physically aggressive towards him or any other officers, and said he pushed § 87(2)(b) on his chest in order to create a safe and reasonable space between himself and § 87(2)(b). Sgt. Kosek had no other reason for pushing § 87(2)(b). § 87(2)(b) lost his balance as a result of the elevated sidewalk, and thus fell to the ground. Sgt. Kosek did not recall if § 87(2)(b) was under arrest at the time he was pushed, but said Lt. Daverin made the decision to arrest § 87(2)(b) and thus did not know what crime § 87(2)(b) was charged with. Sgt. Kosek also did not know if § 87(2)(b) sustained any injuries, nor did he recall observing any injuries on § 87(2)(b)'s person.

The Threat Resistance and Injury (TRI) and the Medical Treatment of Prisoner (MTP) reports prepared for § 87(2)(b) revealed that he sustained minor abrasions to his right hand, and lacerations on the knuckles of his right hand. An ambulance was thus requested to the stationhouse, but § 87(2)(b) refused medical attention Board Review 29 – Board Review 31).

As previously discussed, NYPD Patrol Guide Procedure 221-01, permits officers to use force when it is reasonable to ensure their safety, to gain compliance, to place a person into custody or to prevent an escape from custody. In determining whether the use of force is reasonable, officers shall consider the actions taken by the subject, and the immediacy of the perceived threat or harm to the subject, officers, and/or bystanders (Board Review 24).

§ 87(2)(g)

§ 87(2)(g)

Allegation (K) Discourtesy: At the 79th Precinct stationhouse, Sergeant Joseph Kosek spoke discourteously towards § 87(2)(b)

§ 87(2)(b) said that after Sgt. Kosek pushed her, he told her to “Get the fuck off the block.”

Sgt. Kosek did not recall using any profanity towards § 87(2)(b) or any of the other civilians at the stationhouse.

The BWC videos received for this incident does not depict the interaction between Sgt. Kosek and § 87(2)(b) and the surveillance footage from the 79th Precinct stationhouse has no audio.

§ 87(2)(g)

Allegation (L) Force: At the 79th Precinct stationhouse, an officer used physical force against

§ 87(2)(b)

§ 87(2)(b) said that an officer, who she described as a white man, chubby build, with hazel eyes, blonde hair, and dressed in either uniform or plainclothes, approached and hit her left eye with a closed fist while she was helping § 87(2)(b) off the ground. § 87(2)(b) could not provide any additional descriptions for the officer, nor did she know why the officer hit her in the eye. § 87(2)(b) later said she did not recall when she was hit in the eye or who hit her, and that she noticed that she was hit in the eye after she returned home, and observed a “welt” above her left eye (Board Review 32). § 87(2)(b) said she was certain the lump above her left eye was as a result of being hit in the face by an officer. § 87(2)(b) sought medical attention that same day at the Woodhull Hospital in Brooklyn, where she was prescribed acetaminophen (Board Review 33). § 87(2)(b) however, failed to sign medical release forms, and her medical records were thus not obtained.

As previously discussed, the surveillance footage from the exterior of the 79th Precinct stationhouse (Board Review 07), at 45:57, shows Lt. Daverian and PO Barnett approaching and holding § 87(2)(b) while he was attempting to get off the ground. At 46:00, § 87(2)(b) is standing between two parked vehicles in the street, and is approximately three feet away from § 87(2)(b) Lt. Daverian, and PO Barnett. Lt. Daverian and PO Barnett, both of whom are dressed in plainclothes, and do not appear to have chubby builds, do not make any physical contact with § 87(2)(b). At 46:21, § 87(2)(b) walks away from the scene. None of the surveillance and BWC footage depict any officer making contact with § 87(2)(b)'s face. The surveillance footage, however, suggests that Sgt. Kosek is the only officer on scene who appears to have a chubby build.

Sgt. Manney, PO Elhanafi, PO Zorrilla, and Sgt. Kosek, all denied that Sgt. Kosek or any other officer hit § 87(2)(b) in the face.

§ 87(2)(g)

Allegation (M) Discourtesy: At the 79th Precinct stationhouse, an officer spoke discourteously towards § 87(2)(b).

§ 87(2)(b) (Board Review 34) said he went to the 79th Precinct stationhouse to find out why § 87(2)(b) and § 87(2)(b) had been arrested. § 87(2)(b) spoke with the officer at the desk, who § 87(2)(b) only described as a white man, and was unsatisfied with the officer's response to his questions. § 87(2)(b) thus told the officer that he was going to call IAB and file a complaint. The officer at the desk allegedly told § 87(2)(b) that he did not “give a fuck” about whatever § 87(2)(b) decided to do. § 87(2)(b) was not interested in pursuing this aspect of the complaint, but did not wish to withdraw it. § 87(2)(g)

Allegation (N) Discourtesy: Sergeant Fredrick Manney was discourteous to individuals.

PO Elhanafi's BWC (Board Review 09) at 01:42 and 04:48 shows Sgt. Manney wearing a dark hoodie sweater. On the back of the sweater is a logo of a huge human skull emblazoned with stars on one side of the skull and stripes on the other. There are two revolvers on each side of the skull, and on top above the skull is the inscription "Bed-Stuy Do or Die." and the number "79" (Board Review 45). At 04:48, Sgt. Manney appears with a circle patch on the chest of his sweater with the number "79" emblazoned inside it. There appears to be some writings inside the patch, but it is not clearly visible (Board Review 46).

Sgt. Manney (Board Review 47) acknowledged wearing the sweater with the above described logos and inscriptions, and said he bought the sweater approximately two years ago at the 79th Precinct stationhouse. Sgt. Manney, however, did not recall who he bought the sweater from, did not know whether the logos and inscriptions had any meanings, nor did he recall whether the logos and inscriptions were in anyway affiliated with officers from the 79th Precinct. He did not recall why he wore the sweater on the incident date, did not recall how many times he's worn it while on duty, nor did he recall seeing any other officers from the 79th Precinct wearing attire with similar logos and inscriptions while on or off duty. Sgt. Manney said that the choice of civilian clothes by anticrime officers are often at the discretion of the officer, but acknowledged that there were uniform policies such officers had to adhere to such as wearing a protective vest, the color of the day, and a visible name and badge plate.

As previously discussed, NYPD Patrol Guide Procedure 200-02, states that the mission of the NYPD is to enhance the quality of life in New York City by working in partnership with the community to enforce the law, preserve peace, protect the people, reduce fear, and maintain order. Officers are therefore required to maintain a higher standard of integrity than is generally expected of others, and that they must treat every citizen with compassion, courtesy, professionalism, and respect.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties (Board Review 35).
- § 87(2)(b)
- Sgt. Manney has been a member of service for 10 years, and has been a named subject in 15 CCRB complaints, and 48 allegations, five of which were substantiated, and 29 of which are pending investigation:
 - Case #201903851 involved substantiated search of premises, and failure to provide RTKA card allegations. The Board recommended charges, but the NYPD is yet to impose discipline.
 - Case #201907401 involved substantiated entry and search allegations. The Board recommended charges, but the NYPD is yet to impose discipline.
 - § 87(2)(g)

- Sgt. Kosek has been a member of service for 11 years, and has been a named subject in six CCRB complaints, and 13, allegations, 10 of which were not substantiated, and three of which are pending investigation. § 87(2)(g)
- PO Elhanafi has been a member of service for seven years, and has been a named subject in 14 CCRB complaints, and 39 allegations, one of which was substantiated, and 10 of which are pending investigation:
 - Case 202003707 involved a substantiated physical force allegation. The Board recommended Command Discipline B, whereas the NYPD is yet to impose discipline.
 - PO Elhanafi has a total of six physical force allegations pleaded against him.
- PO Zorrilla has been a member of service for five years, and has been a named subject in 10 CCRB complaints, and 30 allegations, one of which was substantiated, and 24 of which are pending investigations:
 - 201907037 involved a substantiated discourtesy word allegation. The Board and the NYPD both recommended and imposed Command Discipline A.
 - § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This case was not suitable for mediation.
- As of December 3, 2021, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards this to complaint (Board Review 37).
- According to the Office of Court Administration (OCA), § 87(2)(b) and § 87(2)(b) all do not have any history of convictions in New York City (Board Review 38 – Board Review 42).
- Absent a date of birth, an OCA search was not performed for § 87(2)(b)

Squad: 1

Investigator:	<u>Enoch Sowah</u>	<u>SI Sowah</u>	<u>02/04/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Mgr. Joy Almeyda</u>	<u></u>	<u>2.9.22</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date